

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
EASTERN DIVISION**

**GEORGE L. WADE, JR., THE ESTATE OF
GEORGE L. WADE, SR., DECEASED, AND
HIS HEIRS AT LAW**

PLAINTIFFS

v.

CAUSE NO. 2:16cv47-KS-MTP

**THE CITY OF HATTIESBURG, MS, OFFICERS
DEMETRIUS BRELAND and NAROTTAM
HOLDEN, INDIVIDUALLY AND IN THEIR
CAPACITIES AS POLICEMEN WITH THE
HATTIESBURG POLICE DEPARTMENT,
and JOHN DOES 1-10**

DEFENDANTS

**PLAINTIFFS' MOTION FOR RECONSIDERATION
OF THE COURT'S ORDER GRANTING
DEFENDANTS' MOTION FOR SUMMARY JUDGMENT**

The Plaintiffs, George L. Wade, Jr., The Estate of George L. Wade, Sr., Deceased, and His Heirs at Law, file their Motion for Reconsideration of the Court's Memorandum Opinion which granted Defendants' Motion for Summary Judgment, and in its support, state as follows:

1. That in the Court's Memorandum Order and Opinion [71] in which it granted Defendants' Motion for Summary Judgment, the Court stated that with respect to Plaintiff George Wade Jr., "[t]he only evidence of the force used against Wade Jr. before the Court is Breland's deposition testimony and incident report.³" [71, p. 8] Footnote 3 provides that "Plaintiffs cite to various portions of Wade Jr.'s deposition to support their version of the events, but have not submitted those portions of the deposition as evidence or made them part of the record in any way. The Court cannot consider evidence not in the record." [71, footnote 3] The court then stated that "[t]herefore, this is the version

of events that the Court must use in order to determine if Breland used an excessive amount of force.” [71, p. 8]

2. That Plaintiffs respectfully disagree that George Wade Jr.’s deposition testimony was not “part of the record in any way.” In the very first sentence under the Facts section of Plaintiffs Memorandum Brief in Support of Their Response In Opposition to Defendants’ Motion for Summary Judgment [68], Plaintiffs stated that “[o]n the evening of April 16, 2013, George L. Wade, Jr. (Wade, Jr.), was involved in a verbal altercation with his wife, Susa Wade, that resulted in Wade, Jr. pushing Susa away from him. (**Deposition of George L. Wade, Jr.’s Deposition, attached as Exhibit “C” to Defendant’s Motion to Dismiss, Doc. # 50-3, p. 49**).” (Emphasis added)

3. As set forth in Plaintiffs’ Memorandum Brief [68], George Wade Jr.’s deposition is attached in full as Exhibit “C” to Defendants’ Motion to Dismiss [50]. As the court recognized, the Plaintiffs referred to various portions of this deposition testimony throughout its Memorandum Brief.

4. Based on the above, Plaintiffs submit that Edward Wade Jr.’s Deposition is a part of the record. Therefore, the court should have considered his deposition testimony in making its determination as to whether or not he was the victim of excessive use of force.

5. Plaintiffs submit that the failure to consider such evidence constitutes reversible error. Therefore, Plaintiffs request that the court reconsider its rulings, find that Defendants’ Motion for Summary Judgment is not well taken and dismiss same.

6. That the undersigned hereby certifies that this motion is not filed for the purposes of delay, harassment or any other reason prohibited by law.

WHEREFORE, PREMISES CONSIDERED, Plaintiffs respectfully request

that this Honorable Court Reconsider its Memorandum Opinion and Order in which it granted Defendants' Motion for Summary Judgment, find that Defendants' Motion for Summary Judgment is not well taken and dismiss same, and for such other, further, and different relief to which the court determines they may be entitled under the premises.

RESPECTFULLY SUBMITTED, this 21st day of December, 2017.

**GEORGE L. WADE, JR., THE ESTATE
OF GEORGE L. WADE, SR., DECEASED
AND ON BEHALF OF HIS HEIRS AT
LAW, PLAINTIFFS**

By: /s/Ottowa E. Carter Jr.
Ottowa E. Carter Jr., MSB#8925,
Their Attorney

OF COUNSEL:

OTTOWA E. CARTER, JR., P.A.
604 Hwy 80 W., Suite N (39056)
P. O. Box 31
Clinton, MS 39060
Tel: (601) 488-4471
Fax: (601) 488-4472
Email: oecc@ottowacarterlaw.com

Catouche J. L. Body, MSB#99526
THE BODY LAW FIRM PLLC
P. O. Box 13007
Jackson, MS 39236
Tel: (601) 988-1614
attybody@gmail.com

CERTIFICATE OF SERVICE

I, Ottawa E. Carter, Jr., undersigned counsel for Plaintiffs, do hereby certify that I have this day, filed the foregoing with the Clerk of Court using the ECF system which sent notification of such to all registered attorneys and users.

SO CERTIFIED, this 21st day of December, 2017.

/s/ Ottawa E. Carter, Jr.
OTTOWA E. CARTER, JR.